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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,310	10/31/2003	Lisa B. Carvajal	Carvajal 101	3929
7590	04/19/2005		EXAMINER	
Caroline Nash Nash & Titus, LLC 3415 Brookeville Rd. Brookeville, MD 20833				FERNSTROM, KURT
		ART UNIT	PAPER NUMBER	3714

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/699,310	CARVAJAL, LISA B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kurt Fernstrom	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 21 December 2004 and 19 January 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,3-8,11,19 and 20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,3-8,11,19 and 20 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/28/05.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: language explicitly reciting a flexible outer edge, as recited in claim 1, and the lack of reinforcing materials such as a rigid or steel rim, as recited in claim 19, should be added to the specification.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Peters. Peters discloses in Figure 1 and in column 2, line 66 to column 3, line 16 a portable device comprising a circular mat comprising a soft rubber material 11 and a layer of fabric 12 laminated thereon which is flexible for folding. The outer edge is flexible, as shown in Figure 5A, allowing the mat to be folded. As shown in Figures 1 and 2, the mat of Peters has no seams or creases.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters in view of Chang. Pascal discloses all of the limitations of the claims with the exception of the decorative indicia, including indicia in the form of a cartoon character. Chang discloses a mat having indicia thereon representing a cartoon character. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Peters by providing decorative indicia in the form of a cartoon character thereon for the purpose of making the mat more attractive to a child.

Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters in view of Yamasaki. Pascal discloses all of the limitations of the claims with the exception of the fabric being polyester. However, polyester is a well known type of fabric, and is a known material to use in sitting mats, as disclosed for example by Yamasaki. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Peters by providing polyester for the purpose of providing a comfortable yet durable fabric material for sitting. Further, polyester appears to be an arbitrary variation on the LYCRA material disclosed by Peters, being similar materials and having essentially the same function.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters. Peters discloses all of the limitations of claims 6 and 7 with the exception of the

claimed diameter and thickness. From the Figures, it appears that the diameter and thickness are within the claimed ranges. To the extent that the Figures do not explicitly disclose the claimed diameter, such diameter would have been an obvious variation for the purpose of providing a more portable mat, as discussed at column 4, lines 20-27 of Peters. To the extent that the Figures do not explicitly disclose the claimed thickness, such thickness would have been an obvious variation for the purpose of providing a mat which can be easily folded.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal in view of Peters. Pascal discloses in Figure 1 and in column 2, line 7 to column 3, line 31 a portable device comprising a shaped mat comprising a soft decorative material comprising plastic and fabric which is flexible for folding. The device of Pascal does not have a rigid or steel rim along the outer edge. Pascal fails to disclose that the mat comprises a piece of rubber having an upper fabric coating adhered thereto. Peters discloses in Figure 1 and in column 2, line 66 to column 3, line 16 a portable device comprising a circular mat comprising a soft rubber material 11 and a layer of fabric 12 laminated thereon which is flexible for folding. It would have been obvious to one of ordinary skill in the art to modify the device of Pascal by providing a piece of rubber having an upper fabric coating adhered thereto for the purpose of providing a more durable mat which can be used outdoors.

***Response to Arguments***

Applicant's arguments filed on December 21, 2004 have been fully considered but they are not persuasive. The amendments to claim 1 do not overcome the Peters reference. As discussed above, the mat of Peters has a flexible outer edge. In column 4, lines 20-22, the steel band of Peters is explicitly described as being flexible. Also, with respect to the language "flexible for folding, rolling or balling up", this limitation is also read on by Peters. The Peters device is flexible for folding, as shown in Figures 5B and 5C. Also, the phrase "for folding, rolling or balling up" is functional language, which describes the intended purpose of the device rather than reciting further structural limitations, and is deemed to have little if any patentable weight. With respect to the combination of Peters with Chang, Chang is being cited for the indicia thereon, not for its shape. Providing indicia on devices is a well known means of making the device more attractive to children. The arguments concerning claims 6 and 7 are also unpersuasive. The metal of Peters is covered with a hem 14, and is not exposed in a way that would be dangerous to children. Also, Peters discloses that the mat may be used for sitting (column 3, line 7) and is designed to be portable for easy carrying to a desired site (column 4, lines 20-27). With that in mind, one of ordinary skill would have found it obvious to provide a mat having the claimed size.

Applicant's arguments with respect to claims 19 and 20 are also unpersuasive. Applicant should note that modification of the Peters device is not proposed in the Action. Rather, the mat of Pascal is modified in view of the teachings of Peters in the rejection. Peters discusses the advantages of providing a mat flat piece of rubber with a

fabric coating thereon in column 3, lines 1-8. Thus, the combination of references is proper.

Applicant's arguments concerning the rejections under 35 USC 112 are persuasive. Those rejections have been withdrawn.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on (571) 272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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KF  
April 15, 2005

*Kurt Pernstrom*  
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PRIMARY EXAMINER